

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOSEPH WELCH, On Behalf of Himself and All, Others Similarly Situated,

Plaintiff,

-against-

TD AMERITRADE HOLDING CORPORATION,  
TD AMERITRADE, INC., TD BANK USA, N.A. and  
THE TORONTO-DOMINION BANK.

## Defendants.

## 07 CIV 6904 (RJS)

**ECF CASE  
ELECTRONICALLY FILED**

**NOTICE OF MOTION TO  
DISMISS THE CLASS  
ACTION COMPLAINT**

PLEASE TAKE NOTICE that, upon the Class Action Complaint in the above-captioned action; the Memorandum of Law in Support of Defendants' Motion to Dismiss; the accompanying Declaration of Matthew D. Stratton, dated January 7, 2008; and the Defendants' Joint Memorandum of Law in Support of Their Motion to Dismiss the Second Amended Class Action Complaint, filed in DeBlasio v. Merrill Lynch & Co., Inc., No. 07 Civ. 318 (RJS) (docket no. 66), and incorporated by reference in the Memorandum of Law in Support of Defendants' Motion to Dismiss in the above-captioned action, defendants TD AMERITRADE Holding Corporation, TD AMERITRADE, Inc., TD Bank USA, N.A., and The Toronto-Dominion Bank will move this Court, before the Honorable Richard J. Sullivan at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date and at a time designated by the Court, for an Order dismissing the Class Action Complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6), Fed. R. Civ. P. 9(b), and the Securities Litigation Uniform

Standards Act of 1998, Pub. L. 105-353, 112 Stat. 3227 ("SLUSA") and such other and further relief as this Court may deem just and proper.

Dated: January 7, 2008  
New York, New York

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/s/  
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